

FILED

1 David T. Biderman, Bar No. 101577
2 *DBiderman@perkinscoie.com*
3 Judith B. Gitterman, Bar No. 115661
4 *JGitterman@perkinscoie.com*
5 PERKINS COIE LLP
6 1888 Century Park E., Suite 1700
7 Los Angeles, CA 90067-1721
Telephone: 310.788.9900
Facsimile: 310.788.3399

2010 APR -2 PM 2:37

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY

CP

6 Attorneys for Defendant Standard & Poor's
7 Financial Services LLC, incorrectly sued as
Standard & Poor's

8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 PAUL RICE and JOSEPH RICE,

13 Plaintiffs,
14
15 v.
16 CHARLES SCHWAB; MOODY'S
17 INVESTORS SERVICE; STANDARD
& POOR's, *Does 1 through 50,
inclusive*
18 Defendants.

SACV10-00398 CJC MLGx
Case No.

**NOTICE OF REMOVAL OF
DEFENDANTS STANDARD &
POOR'S AND MOODY'S**

19 Defendants in this action, Moody's Investors Service, Inc. ("Moody's"),
20 incorrectly sued herein as "Moody's Investors Service," and Standard & Poor's
21 Financial Services LLC ("S&P")¹ incorrectly sued herein as Standard and Poor's
(collectively, the "Removing Defendants"), by their undersigned attorneys, hereby
22 remove the above-captioned case pending in the Superior Court of the State of
23 California, County of Orange, to the United States District Court for the Central
24 District of California, which embraces the place, Santa Ana, California, where the

25
26
27
28 ¹ Since January 1, 2009, Standard & Poor's has been a business unit of
Standard & Poor's Financial Services LLC, a wholly owned subsidiary of The
McGraw-Hill Companies, Inc. It was previously and unincorporated division of
McGraw-Hill.

1 state court action is pending. This Court has jurisdiction over this matter pursuant
2 to 28 U.S.C. § 1332 and 28 U.S.C. § 1367(a), and the claims may be removed to
3 this Court pursuant to 28 U.S.C. § 1441.

4 This case is removed without waiver of any defense that may be available to
5 the Removing Defendants, including, without limitation, defenses related to
6 personal jurisdiction over the Removing Defendants, the absence of venue in this
7 Court or in the court from which this action has been removed, and the Removing
8 Defendants do not acknowledge or waive service of process.

9 As grounds for removal, Defendants state as follows:

10 1. On January 15, 2010, plaintiffs Paul Rice and Joseph Rice
11 ("Plaintiffs") filed a complaint entitled Paul Rice and Joseph Rice vs. Charles
12 Schwab ("Schwab"), Moody's and S&P in the Superior Court of the State of
13 California, County of Orange. This case was assigned a Case Number of 30-2010
14 (the "State Court Action").

15 2. On March 3, 2010, copies of the Summons and Complaint were served
16 upon each of the Removing Defendants.

17 3. Pursuant to 28 U.S.C. § 1446(a) and (b), this Notice of Removal is
18 being filed in the United States District Court for the Central District of California
19 within thirty days after March 3, 2010, which was the date upon which service was
20 effectuated upon the Removing Defendants.

21 4. As required by 28 U.S.C. § 1441(b), no properly joined defendant is a
22 citizen of the State of California. The removing defendants hereby assert that
23 Plaintiffs' joinder of Schwab was fraudulent due to the existence of a binding
24 arbitration agreement (the "Agreement") between Schwab and the Plaintiffs, which
25 Agreement explicitly covers the causes of action asserted in this case against
26 Schwab. Additionally, Schwab has declared its intention to fully avail itself of the
27 Agreement in this case. See Declaration of Lowell Haky, filed herewith.
28 Defendant Schwab will move to compel arbitration if not voluntarily dismissed

1 from this action by plaintiffs.

2 5. The Superior Court of the State of California, County of Orange, is a
3 State Court within this judicial district.

4 6. This is a civil action within the meaning of the Acts of Congress
5 relating to removal actions.

6 7. This case is properly removable pursuant to 28 U.S.C. §§ 1441(a) and
7 (b) because this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a),
8 which provides, in relevant part:

9 Section 1332. Diversity of citizenship; amount in controversy; costs

10 (a) The district courts shall have original jurisdiction of
11 all civil actions where the matter in controversy exceeds
12 the sum or value of \$75,000, exclusive of interest and
13 costs, and is between –

14 * * *

15 (3) citizens of different States and in which citizens or
16 subjects of a foreign state are additional parties

17 8. Plaintiff Paul Rice was at the time of the commencement of this action,
18 and currently is, a citizen of the State of California. *See* Pl's Compl. at ¶ 1.

19 9. Plaintiff Joseph Rice was at the time of the commencement of this
20 action, and currently is, a citizen of the State of Michigan. *See* Pl's Compl. at ¶ 2.

21 10. Defendant S&P, which is a limited liability company formed under the
22 laws of Delaware and which has its principal place of business in New York, is a
23 wholly owned subsidiary of The McGraw-Hill Companies, Inc., which is
24 incorporated under the laws of New York and has its principal place of business in
25 New York, New York. Accordingly, S&P is deemed a citizen of New York. 28
26 U.S.C. § 1332(c)(1).

27 11. Defendant Moody's is a wholly owned subsidiary of Moody's
28 Corporation, and both entities are incorporated under the laws of Delaware and
have their principal places of business in New York, New York, and are deemed
citizens of New York. 28 U.S.C. § 1332(c)(1). Defendant Moody's consents to the

1 removal.

2 12. The amount in controversy exceeds the sum of \$75,000.00, exclusive
3 of interest and costs. The Complaint alleges, *inter alia*, that Plaintiffs invested
4 \$260,951.85. *See* Pl's Compl. at ¶¶ 10, 12, 14, 16. The Complaint further alleges
5 that Plaintiffs' investment, as a result of Defendants' actions, currently "has virtually
6 no value." *See* Pl's Compl. at ¶ 22. Additionally, Plaintiffs are seeking punitive
7 and treble damages. *See* Pl's Compl. at Prayer for Relief.

8 13. Accordingly, this Court has jurisdiction over this action pursuant to 28
9 U.S.C. § 1332(a) and 28 U.S.C. § 1367(a).

10 14. In accordance with 28 U.S.C. § 1446(a), attached hereto as **Exhibit A**
11 are file-stamped copies of all process and pleadings served upon the Removing
12 Defendants: the Summons and Complaint, Amendments to the Complaint, and
13 proofs of service.

14 15. The Removing Defendants will promptly serve a copy of this Notice of
15 Removal on Plaintiffs' counsel and file with the Clerk of the Superior Court of the
16 State of California, County of Orange, a Notice of Filing of Notice of Removal
17 pursuant to 28 U.S.C. § 1446(d).

18 16. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See*
19 28 U.S.C. § 1446(a).

20 //

21 [REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

22 //

23 //

24 //

25 //

26 //

27 //

28

1 WHEREFORE, this action should proceed in the United States District Court
2 for the Central District of California as an action properly removed thereto.

3 DATED: April 2, 2010

Respectively Submitted,

4 By: David T. Biderman
5 David T. Biderman *by [initials]*

6 **Perkins Coie LLP**
7 1888 Century Park E., Suite 1700
8 Los Angeles, CA 90067-1721
Telephone: (310) 788.9900
Facsimile: (310) 788.3399

9 Attorneys for Defendant Standard &
10 Poor's Financial Services LLC

11 Floyd Abrams (*pro hac vice* application
to be submitted)
12 Brian Markley (*pro hac vice* application
to be submitted)
13 **Cahill Gordon & Reindel LLP**
14 Eighty Pine Street
New York, NY 10005
Telephone: (212) 701-3000
Facsimile: (212) 269-5420

16 Attorneys for Defendant Standard &
17 Poor's Financial Services LLC

18 Frank A. Silane (SBN No. 90940)
19 Scott D. Cunningham (SBN 200413)
Condon & Forsyth LLP
1901 Avenue of the Stars, Suite 850
Los Angeles, CA 90067
Telephone: (310) 557-2030

21 Attorneys for Moody's Investors Service,
22 Inc.

23 James J. Coster (*pro hac vice* application
to be submitted)
24 Joshua M. Rubins (*pro hac vice*
application to be submitted)
Satterlee Stephens Burke & Burke LLP
230 Park Avenue, 11th Floor
New York, New York 10169
Telephone: (212) 818-9200

27 Attorneys for Moody's Investors Service,
28 Inc.

Exhibit "A"



CORPORATION SERVICE COMPANY

KMV RECEIVED

MAR 05 2010

AWS / ALL
Transmittal Number: 7444582
Date Processed: 03/04/2010

Notice of Service of Process

Primary Contact: Kenneth M Vittor Sr.
The McGraw-Hill Companies, Inc.
1221 Ave. Of The Americas
Floor 48TH Legal Dept. -
New York, NY 10020

Copy of transmittal only provided to: Lee Malik

Entity:	Standard & Poor's Financial Services LLC Entity ID Number 2769375
Entity Served:	Standard & Poors Financial Services, LLC
Title of Action:	Paul Rice vs. Charles Schwab
Document(s) Type:	Summons/Complaint
Nature of Action:	Other
Court:	Orange County Superior Court, California
Case Number:	30-2010-00338482
Jurisdiction Served:	California
Date Served on CSC:	03/03/2010
Answer or Appearance Due:	30 Days
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Erica A. Woosley 805-897-1890

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

03/02/2010 16:21 8058971834

ERIC A. WOOSLEY

PAGE 04/27

01/15/2010 15:07 8058971834

ERIC A. WOOSLEY

PAGE 03/16

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: Charles Schwab; Moody's Investors Service; Standard & Poor's, and DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF: Paul Rice and Joseph Rice
(*LO ESTÁ DEMANDANDO EL DEMANDANTE*):

SUM-100	
FILED	
SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER	
JAN 15 2010	
ALAN CARLSON, Clerk of the Court	
BY: <u>N. DOREMAN</u> DEPUTY	

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtselfhelp.ca.gov/forms/), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtselfhelp.ca.gov/forms/), or by contacting your local court or county bar association. NOTE: The court has a statutory fee for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court fee must be paid before the court will dismiss the case. **AVISO:** Le han demandado. Si no responde dentro de 30 días, la corte podrá decidir en su contra sin escuchar su versión. Lee la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entregaron *esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entienda una cita al demandante. Una cita o una fecha de audiencia no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto. Un solo día no protege. Puede usar el formulario que usted mismo usó para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.succourts.ca.gov), en la biblioteca de libros de su condado, o en la corte que lo quiere más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de solicitud de cuota gratuita. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte lo puede juzgar sin usted y dentro de sus limitaciones.*

Tiene otros recursos legales. Se recomienda que busque a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de abogados. Si no puede pagar el abogado, se puede solicitar una cuota gratuita para abogados y servicios legales gratuitos de la corte. Para obtener más información, llame al Centro de Ayuda de las Cortes de California (www.succourts.ca.gov) o póngase en contacto con la corte o el consejo de abogados locales. **AVISO:** Por ley, la corte tiene derecho a recobrar las costas y las costas causadas por informar un aviso sobre cualquier reclamación de \$10,000 o más de acuerdo con la legislación. Un aviso o una cancelación de escritorio en un caso de demanda civil. Tiene que pagar el gasto de la corte antes de que la corte pueda deshacer el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Orange County Superior Court
700 Civic Center Drive, West

Santa Ana, CA 92702

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Eric A. Woosley (85211962) (805) 897-1830 (805) 897-1834
THE LAW OFFICE OF ERIC A. WOOSLEY

1602 State Street

Santa Barbara, CA 93101

DATE:

Fechado: **JAN 15 2010**

AI AN CARLSON

Clerk, by _____
(Señorita)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (Form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served.

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): Standard & Poors Financial Services, LLC

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (=association or partnership) CCP 416.80 (authorized person)
 other (specify):

4. by personal delivery on (date):

Form Adopted by Mandate of the
Superior Court of California
SOM-100 (Rev. Apr. 1, 2000)

SUMMONS

Legal
Services
of
the
Court

Code of Civil Procedure §§ 12.22, 1225
Page 1 of 3

03/02/2010 16:21 8058971834

ERIC A. WOOSLEY

PAGE 05/27

01/15/2010 15:07 8058971834

ERIC A. WOOSLEY

PAGE 04/15

1 LAW OFFICE OF ERIC A. WOOSLEY
2 1602 State Street
3 Santa Barbara, CA 93101
4 (805) 897-1830 FAX: (805) 897-1834
5 Eric A. Woosley (State Bar No. 211962)
6 Jordan T. Porter (State Bar No. 250112)
7 Attorneys for Plaintiffs PAUL RICE and JOSEPH RICE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JAN 15 2010
ALAN CARLSON, Clerk of the Court
BY M DOPPELMAN DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

BY FAX

30-2010

00338482

10 PAUL RICE and JOSEPH RICE) CASE NO.
11 Plaintiffs,) COMPLAINT FOR:
12 v.) 1. NEGLIGENCE AGAINST ALL 13 DEFENDANTS
14 CHARLES SCHWAB; MOODY'S) 2. BREACH OF FIDUCIARY DUTY 15 INVESTORS SERVICE; STANDARD &
15 POOR's; DOES 1 through 50, inclusive,) 3. NEGLIGENT MISREPRESENTATION 16 AGAINST ALL DEFENDANTS
17 Defendants.) 4. INTENTIONAL 18 MISREPRESENTATION AGAINST ALL DEFENDANTS
19) 5. FINANCIAL ELDER ABUSE IN VIOLATION OF WELFARE & INSTITUTIONS CODE § 15610.30 AGAINST ALL DEFENDANTS

JUDGE DAVID R. CHAFFEE

C-80

20 1. Plaintiff Paul Rice is, and at all relevant times was,
21 a resident of the City of Dana Point, County of Orange, State of
22 California, and a trustee and beneficiary under the Rice Family
23 Trust u/a dated February 7, 2007 ("Rice Family Trust.").

24 2. Plaintiff Joseph Rice is, and at all relevant times
25 was, a resident of the City of Sterling Heights, County of
26 Macomb, State of Michigan, and a beneficiary under the Rice
27 Family Trust.

03/02/2010 15:21 8058971834

ERIC A. WOOSLEY

PAGE 06/27

1 3. Plaintiffs are informed and believe, and thereon
2 allege, that at all relevant times Defendant Charles Schwab, Inc.
3 was a corporation conducting business in the County of Orange,
4 State of California.

5 4. Plaintiffs are informed and believe, and thereon
6 allege, that at all relevant times Defendant Moody's Investors
7 Service was a corporation conducting business in the County of
8 Orange, State of California.

9 5. Plaintiffs are informed and believe, and thereon
10 allege, that at all relevant times Defendant Standard & Poor's
11 was a corporation conducting business in the County of Orange,
12 State of California.

13 6. The true names and capacities, whether individual,
14 corporate, associate or otherwise, of defendants sued herein as
15 DOES 1 through 50, inclusive, are currently unknown to
16 Plaintiffs, who therefore sue said defendants by such fictitious
17 names and Plaintiffs will seek to amend this Complaint to show
18 their true names and capacities when the same has been
19 ascertained. Plaintiffs are informed and believe, and based
20 thereon allege, that each of the defendants designated herein as
21 DOE are legally responsible in some manner for the events and
22 happenings referred to herein and caused injury and damage
23 proximately thereby to Plaintiffs as alleged herein. Each
24 reference in this Complaint to "defendant", "defendants" or a
25 specifically named defendant refers also to all defendants sued
26 under fictitious names. Plaintiffs are informed and believe that

28

2

COMPLAINT

03/02/2010 16:21 8058971834

ERIC A. WOOSLEY

PAGE 07/27

1 each DOE defendant was responsible in some manner for the
2 occurrences and injuries alleged in this Complaint.
3

4 7. Plaintiffs are informed and believe, and based thereon
5 alleges, that at all times herein mentioned each of the
6 defendants was the agent, employee and servant of each of the
7 remaining defendants, and in doing the things hereinafter alleged
8 was acting within the scope of such agency, employment, and
9 servitude, with the knowledge and consent of each of the
10 defendants. Whenever this Complaint makes reference to
11 "defendant" or "defendants", and "each of them," such allegations
12 shall be deemed to mean the acts of defendants acting
13 individually, jointly and/or severally.

14 GENERAL ALLEGATIONS

15 8. In or about January 2008, Plaintiffs, and each of them,
16 were beneficiaries and had an ownership interest in an investment
17 account held by Defendant Charles Schwab under the name A. Rice
18 and P. Rice, Trustees, Rice Family Trust (the "Rice Account").
19

20 9. On or about January 23, 2008, Plaintiff Paul Rice
21 received a Fixed Income Offering Report from Defendant Charles
22 Schwab recommending purchase of preferred shares of Fannie Mae
23 with a dividend rate of 8.25 percent. These shares were rated AA
24 by Defendant Moody's Investor Services and AA3 by Standard &
25 Poor's.
26

27 //
28

83/02/2010 16:21 8058971834

ERIC A. WOODSLEY

PAGE 08/27

1 10. On or about January 25, 2008, Plaintiff Joseph Rice
2 purchased 4,000 shares of the Fannie Mae 8.25 percent preferred
3 stock for the Rice Account at a total price of \$104,482.95.

4 11. On or about February 13, 2008 Plaintiff Paul Rice
5 received a Fixed Income Offering Report from Defendant Charles
6 Schwab also recommending the purchase of Fannie Mae preferred
7 shares at 8.25 percent dividend. These shares were still rated AA
8 by Defendant Moody's Investor Services and AA3 by Standard &
9 Poor's.

10 12. On February 13, 2008 Plaintiff Paul Rice purchased an
11 additional 2,000 shares of the Fannie Mae 8.25 percent preferred
12 stock for the Rice Account for a total price of \$52,210.

13 13. On or about February 13, 2008, in the aforementioned
14 Fixed Income Offering Report, Defendant Schwab recommended the
15 purchase of preferred shares of Freddie Mac with a dividend rate
16 of 8.375 percent, which shares were rated AA by Defendant Moody's
17 Investor Services and AA3 by Standard & Poor's.

18 14. On or about February 14, 2008 Paul Rice purchased for
19 the Rice Account 2,000 shares of the Freddie Mac 8.375 percent
20 preferred shares. Plaintiff paid \$53,069.95 for these shares.

21 15. On or about May 6, 2008, Plaintiff Paul Rice received
22 a Fixed Income Offering Report from Defendant Charles Schwab
23 recommending the purchase of the same Freddie Mac preferred
24 shares with a dividend rate of 8.375 percent. The Freddie Mac
25 preferred shares continued to be rated AA by Defendant Moody's
26 Investor Services and AA3 by Standard & Poor's.

27

28
4

COMPLAINT

1 16. On or about May 7, 2008 Plaintiff Paul Rice purchased
2 for the Rice Account 2,000 shares of the Freddie Mac 8.375
3 percent preferred stock at a total price of \$51,188.95.

4 17. At the time of each of the aforementioned offerings in
5 January, February and May 2008, the Moody's ratings were AA and
6 Schwab also published ratings of AA3 Standard & Poor's regarding
7 the same securities.

8 18. Plaintiffs are informed and believe and thereon allege
9 that at the time that Defendant Schwab published the buy
10 recommendations, and Moody's AA ratings and AA3 by Standard &
11 Poor's, regarding the subject securities, it was aware that
12 Fannie Mae and Freddie Mac were in financial trouble and were bad
13 risks.

14 19. Plaintiffs are informed and believe and thereon allege
15 that at the time that Defendant Moody's Investor Services
16 published the AA and AA3 by Standard & Poor's ratings regarding
17 the subject securities, it was aware that Fannie Mae and Freddie
18 Mac were in financial trouble and were bad risks.

19 20. Plaintiffs are informed and believe and thereon allege
20 that Defendants Moody's, Schwab, and Standard & Poor's, had
21 knowledge that Fannie Mae and Freddie Mac were in financial
22 trouble and were bad risks as far back as 2007. Despite such
23 knowledge, Moody's, Schwab, and Standard & Poor's published the
24 ratings and buy recommendations, which were misleading and
25 omitted material facts known to Defendants that, had they been

26

27

28

• 03/02/2010 16:21 8958971831

ERIC A. WINSLEY

PAGE 18/27

known to Plaintiffs, would have materially affected Plaintiffs' decision with regard to the purchase of the subject securities.

3 21. Plaintiffs, by and through the Rice account, purchased
4 the Fannie Mae and Freddie Mac securities in reliance on the
5 published ratings and recommendations, as well as tax benefits,
6 made by Defendants.

7 22. In or about September 2008 Fannie Mae and Freddie Mac
8 were placed into conservatorship overseen by the Federal Housing
9 Finance Agency. As a consequence, all dividends from the
10 preferred shares have been eliminated and the stock has virtually
11 no value.

LAST CALL ON ANTHONY

(Negligence Against All Defendants)

14 23. Plaintiffs incorporate by reference all preceding
15 paragraphs as fully set forth herein.

16 24. Defendants represented to Plaintiffs that they possessed
17 special skill, knowledge and reputation to evaluate and capably
18 engage in the recommendation of investments suitable for
19 Plaintiff. Defendants also knew that Plaintiffs would be relying
20 totally on Defendants' professed superior knowledge and expertise.
21 Because of their superior knowledge and expertise, and the
22 position of trust they occupied with Plaintiff, the Defendants
23 owed Plaintiffs a duty to act with the utmost care to provide
24 reliable information upon which Plaintiffs could foreseeably act
25 in making investment decisions and transactions.

26. 25. In breach of the duty it owed to Plaintiffs, Defendant

03/02/2010 16:21 8858971834

ERIC A. WOOSLEY

PAGE 11/27

1 Charles Schwab, as set forth above, published buy recommendations
2 and ratings that were not substantiated by the known facts and
3 mislead Plaintiffs into purchasing highly risky securities that
4 ultimately lost all value.

5 26. In breach of the duty it owed to Plaintiffs, Defendant
6 Moody's Investor Services, as set forth above, published AA and
7 Standard & Poor's AA3 ratings regarding the subject securities
8 that were not substantiated by the known facts and mislead
9 Plaintiffs into purchasing highly risky securities that ultimately
10 lost all value.

11 27. As a proximate result of these breaches of the duties
12 that Defendants owed to Plaintiffs, the Plaintiffs suffered
13 monetary losses in a sum to be proven at the time of trial.

14 **SECOND CAUSE OF ACTION**

15 **(Breach of Fiduciary Duty Against All Defendants)**

16 28. Plaintiffs incorporate by reference all preceding
17 paragraphs as fully set forth herein.

18 29. Defendants represented to Plaintiffs that they
19 possessed special skill, knowledge and reputation to evaluate and
20 capably engage in the recommendation of investments suitable for
21 Plaintiffs. Defendants also knew that Plaintiffs would be relying
22 totally on Defendant's professed superior knowledge and expertise.
23 Because of their superior knowledge and expertise, and the
24 positions of trust they occupied with Plaintiffs, the Defendants
25 owed Plaintiff a duty to provide reliable information upon which
26 Plaintiffs could foreseeably act in making investment decisions

03/02/2010 16:21 8058971834

ERIC A. WOOSLEY

PAGE 12/27

1 and transactions.

2 30. In breach of the fiduciary duty it owed to the
3 Plaintiffs, Defendant Charles Schwab made representations
4 regarding the suitability of the subject securities for purchase,
5 as set forth above, that were not true.

6 31. In breach of the fiduciary duty it owed to the
7 Plaintiffs, Defendant Moody's Investor Services made
8 representations and ratings regarding the suitability of the
9 subject securities for investment, as set forth above, that were
10 not true.

11 32. As a proximate result of the breaches of the duties
12 the Defendants owed to Plaintiffs, the Plaintiffs suffered
13 monetary losses in a sum to be proven at the time of trial.

14 33. Plaintiffs are informed and believe, and thereon
15 allege, that Defendants' conduct as described herein was intended
16 by Defendant to cause injury, or was undertaken with the knowledge
17 that injury and damages to Plaintiffs was probable and likely, such
18 that the conduct was despicable and carried on by Defendants with a
19 willful and conscious disregard of the rights of Plaintiffs,
20 subjected Plaintiffs to cruel and unjust hardship in conscious
21 disregard of their rights, and were intentional misrepresentations,
22 deceit, and/or concealment of material facts known to Defendants
23 with the intent to deprive Plaintiffs of property, legal rights, or
24 to otherwise cause them injury, so as to constitute malice,
25 oppression, and/or fraud under California Civil Code §3294, thereby
26 entitling Plaintiffs to punitive damages in an amount appropriate

27

8

COURTSTAMP

03/02/2010 16:21 8058971834

ERIC A. WOOSLEY

PAGE 13/27

1 to punish or set an example of Defendants.
2

3 **THIRD CAUSE OF ACTION**

4 **(Negligent Misrepresentation Against All Defendants)**

5 34. Plaintiffs incorporate by reference all preceding
6 paragraphs as fully set forth herein.

7 35. The Defendants made the representations and
8 recommendations set forth above.

9 36. Plaintiffs are informed and believe, and thereon
10 allege, that the representations and recommendations set forth
11 above were false.

12 37. Plaintiffs are further informed and believe, and
13 thereon allege, that if the aforementioned representations and
14 recommendations were not intentionally or fraudulently made, that
15 Defendant had no reasonable grounds for believing that the
16 representations to be true when they were made.

17 38. Plaintiffs reasonably relied on the aforementioned
18 representations and recommendations of Defendants.

19 39. Plaintiffs' reliance on Defendants' representations
20 and recommendations, was a substantial factor in causing harm to
21 the Plaintiffs in that their decisions to buy the subject
22 securities were predicated on the representations made by
23 Defendants.

24 40. Plaintiffs have been harmed and have suffered damages,
25 in an amount to be proven at time of trial, as a result of their
26 reliance upon Defendants' representations and recommendations.

27 **FOURTH CAUSE OF ACTION**

03/02/2010 16:21 8058971834

ERIC A. WOODLEY

PAGE 14/27

(Intentional Misrepresentation Against All Defendants)

2 41. Plaintiffs incorporate by reference all preceding
3 paragraphs as fully set forth herein.

4 42. The Defendants made the representations and
5 recommendations set forth above.

43. Plaintiffs are informed and believe, and thereon
allege, that the representations and recommendations set forth
above were false.

9 44. Plaintiffs are informed and believe, and thereon
10 allege, that the aforementioned representations and
11 recommendations were false and made intentionally or recklessly
12 and without regard for their truth.

13 45. Plaintiffs reasonably relied on the aforementioned
14 representations and recommendations of Defendants.

13 46. Plaintiffs' reliance on Defendants' misrepresentations
14 and promises was a substantial factor in causing harm to
15 Plaintiffs.

18 47. Plaintiffs have been harmed and have suffered damages,
19 in an amount to be proven at time of trial, as a result of their
20 reliance upon Defendant's promises and representations.

21 48. Plaintiffs are informed and believe, and thereon
22 allege, that Defendants' conduct as described herein was intended
23 by Defendants to cause injury, or was undertaken with the knowledge
24 that injury and damages to Plaintiffs was probable and likely, such
25 that the conduct was despicable and carried on by Defendants with a
willful and conscious disregard of the rights of Plaintiffs,

03/02/2010 16:21 8058971834

ERIC A. WOODSLEY

PAGE 15/27

1 subjected Plaintiffs to cruel and unjust hardship in conscious
2 disregard of their rights, and were intentional misrepresentations,
3 deceit, and/or concealment of material facts known to Defendants
4 with the intent to deprive Plaintiffs of property, legal rights, or
5 to otherwise cause them injury, so as to constitute malice,
6 oppression, and/or fraud under California Civil Code §3294, thereby
7 entitling Plaintiffs to punitive damages in an amount appropriate
8 to punish or set an example of Defendants.
9

10 **FIFTH CAUSE OF ACTION**

11 (Financial Elder Abuse in Violation of Welfare &
12 Institutions Code § 15610.30 Against All Defendants)

13 49. Plaintiffs incorporate by reference all preceding
14 paragraphs as fully set forth herein.

15 50. Plaintiff Joseph Rice is currently 82 years old and at
16 all relevant times was more than 65 years old.

17 51. It is unlawful for any person or entity to take,
18 secrete, appropriate or retain real or personal property of an
19 elder or dependent adult to a wrongful use or with intent to
20 defraud, or both. Further, it is unlawful for any person or entity
21 to assist in taking, secreting, appropriating, or retaining real
22 or personal property of an elder or dependent adult to a wrongful
23 use or with intent to defraud, or both. (Welfare & Institutions
24 Code § 15610.30.)

25 52. Defendants intentionally, and in bad faith, made false
26 representations to Plaintiff Joseph Rice to induce him into
27 purchasing a security unsuitable investment. Defendants' actions
28

03/02/2010 16:21 8858971834

ERIC A. WOOSLEY

PAGE 16/27

1 amount to taking, secreting, appropriating, and retaining the
2 personal property of an elder, to both a wrongful use, with the
3 intent to defraud in violation of section 15610.30 of the Welfare
4 and Institutions Code.

5 WHEREFORE, Plaintiffs pray for judgment against the
6 Defendant as follows:

- 7 1. Compensatory damages in an amount subject to proof at
8 trial;
- 9 2. General damages according to proof;
- 10 3. Punitive or exemplary damages to be determined by
11 the trier of fact;
- 12 4. For prejudgment interest on said sums at the legal
13 rate, commencing upon the date the Complaint was filed;
- 14
- 15 5. Costs incurred in this action;
- 16 6. Attorneys' fees as provided by contract or statute;
- 17 7. Statutory provisions for attorney's fees pursuant to
18 section 15657.5 of the Welfare and Institutions Code;
- 19 8. Treble damages pursuant to California Civil Code § 3345
20 as to the Fifth Cause of Action; and
- 21 9. For such other and further relief as the Court may deem
22 just and proper.

23 //

24 //

25
26
27
28 12

COMPLAINT

03/02/2010 15:21 8058971834

ERIC A. WOOSLEY

PAGE 17/27

1 Dated: January 15, 2010

LAW OFFICE OF ERIC A. WOOSLEY

2
3 By:

4 ERIC A. WOOSLEY
5 JORDAN T. PORTER
6 Attorneys for Plaintiffs PAUL
RICE and JOSEPH RICE

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

13

COMPLAINT

03/02/2010 16:21 8058971834

ERIC A. WOOSLEY

PAGE 18/27

02/16/2010 15:48 8058971834

ERIC A. WOOSLEY

PAGE 82/84

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

NAME OF JUSTICE COURT DISTRICT OR BRANCH COURT, IF ANY Orange County Superior Court Central Justice Center		FOR COURT USE ONLY
TITLE OF CASE (ABBREVIATED) Rice, et al., v. Charles Schwab, et al.		FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER FEB 16 2010 ACLU OF CALIFORNIA BY S. FRANKS
ATTORNEY(S) NAME AND ADDRESS Eric A. Woosley (SB211962) THE LAW OFFICE OF ERIC A. WOOSLEY 1602 State Street Santa Barbara, CA 93010 BAR NO: SB211962		CASE NUMBER
ATTORNEY(S) FOR Paul Rice and Joseph Rice	TELEPHONE (805) 997-1830	30-2010-00338482

AMENDMENT TO COMPLAINT

BY FAX

FICTIONAL NAME (NO ORDER REQUIRED)

Upon filing the complaint here, plaintiff(s) being ignorant of the true name of a defendant and having designated said defendant in the complaint by the fictitious name of

and having discovered the true name of the said defendant to be

hereby amends the complaint by inserting such true name in place and stead of such fictitious name wherever it appears in said complaint.

ATTORNEY(S) FOR PLAINTIFF(S)

INCORRECT NAME (PRINT IN ALL CAPS)

Plaintiff(s) having designated a defendant in the complaint by the incorrect name of
MOODY'S INVESTORS SERVICE

and having discovered the true name of the said defendant to be
MOODY'S INVESTORS SERVICE, INC.

hereby amends the complaint by inserting such true name in place and stead of such incorrect name wherever it appears in said complaint.

LAW OFFICE OF ERIC A. WOOSLEY

ATTORNEY(S) FOR PLAINTIFF(S)

ERIC A. WOOSLEY, ESQ.

ORDER

Proper cause appearing, plaintiff(s) ERICK A. WOOSLEY allowed to file the above amendment to the complaint.

Date FEB 16 2010

DAVID P. CHAFFEE

JUDGE OF THE ABOVE ENTITLED COURT

F00060413

AMENDMENT TO COMPLAINT

CCP 473.01
003384

03/02/2010 16:21 8058971834

ERIC A. WOOSLEY

PAGE 19/27

02/18/2010 15:48 8058971834

ERIC A. WOOSLEY

PAGE 03/04

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

NAME OF JUSTICE COURT DISTRICT OR BRANCH COURT, IF ANY Orange County Superior Court Central Justice Center		FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER <i>FEB 16 2010</i> ALAN CARLSON, Clerk of the Court BY S FRAHS
TITLE OF CASE (ABBREVIATED) Rice, et al. v. Charles Schwab, et al.		
ATTORNEY(S) NAME AND ADDRESS Eric A. Woosley (SB211962) THE LAW OFFICE OF ERIC A. WOOSLEY 1602 State Street Santa Barbara, CA 93010 BAR NO. SB211962		CASE NUMBER 30-2010-00338482
ATTORNEY(S) FOR Paul Rice and Joseph Rice	TELEPHONE (805) 897-1930	

AMENDMENT TO COMPLAINT**BY FAX****FICTIONAL NAME (NO ORDER REQUIRED)**

Upon filing the complaint here, plaintiff(s) being ignorant of the true name of a defendant and having designated said defendant in the complaint by the fictitious name of

and having discovered the true name of the said defendant to be

hereby amends the complaint by inserting such true name in place and stead of such fictitious name wherever it appears in said complaint.

ATTORNEY(S) FOR PLAINTIFF(S)**INCORRECT NAME (REQUIRES ORDER THEREON)**

Plaintiff(s) having designated a defendant in the complaint by the incorrect name of
STANDARD & POORS

and having discovered the true name of the said defendant to be
STANDARD & POORS FINANCIAL SERVICES, LLC

hereby amends the complaint by inserting such true name in place and stead of such incorrect name wherever it appears in said complaint.

THE LAW OFFICE OF ERIC A. WOOSLEY**ATTORNEY(S) FOR PLAINTIFF(S)****ERIC A. WOOSLEY, ESQ.****ORDER**

Proper cause appearing, plaintiff(s) **DAVID R. CHAPPEE** allowed to file the above amendment to the complaint
Date **FEB 16 2010** **ISWAED**

JUDGE OF THE ABOVE ENTITLED COURT

F-105-2513

AMENDMENT TO COMPLAINTCCP 473, 474
CO-210

03/02/2010 16:21 8858971834

ERIC A. WOOSLEY

PAGE 28/27

02/18/2010 15:48 8858971834

ERIC A. WOOSLEY

PAGE 84/84

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

NAME OF JUSTICE COURT DISTRICT OR OF BRANCH COURT, IF ANY Orange County Superior Court Central Justice Center		FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER
TITLE OF CASE (ABBREVIATED) Rice, et al. v. Charles Schwab, et al.		FEB 16 2010 ALAN CARLSON, Clerk of the Court <i>Duffy</i> BY S FRAHS
ATTORNEY(S) NAME AND ADDRESS Eric A. Woosley (SB211962) THE LAW OFFICE OF ERIC A. WOOSLEY 1602 State Street Santa Barbara, CA 93010 BAR No: SB211962		CASE NUMBER 30-2010-00336482
ATTORNEY(S) FOR Paul Rice and Joseph Rice	TELEPHONE (805) 897-1830	

AMENDMENT TO COMPLAINT

BY FAX

FICTIONAL NAME (NO ORDER REQUIRED)

Upon filing the complaint (here, plaintiff(s), being ignorant of the true name of a defendant and having designated said defendant in the complaint by the fictitious name of

and having discovered the true name of the said defendant to be

hereby amends the complaint by inserting such true name in place and stead of such fictitious name whenever it appears in said complaint.

ATTORNEY(S) FOR PLAINTIFF(S)

INCORRECT NAME (NO ORDER REQUIRED)

Plaintiff(s) having designated a defendant in the complaint by the incorrect name of
CHARLES SCHWAB

and having discovered the true name of the said defendant to be
CHARLES SCHWAB & CO., INC.

hereby amends the complaint by inserting such true name in place and stead of such incorrect name whenever it appears in said complaint.

LAW OFFICE OF ERIC A. WOOSLEY

ATTORNEY(S) FOR PLAINTIFF(S)

ERIC A. WOOSLEY, ESQ.

ORDER

Proper cause appearing, plaintiff(s) DAVID R. CHAFFEE allowed to file the above amendment to the complaint.

Date FEB 16 2010

DAVID R. CHAFFEE

JUDGE OF THE ABOVE ENTITLED COURT

FRAHS

AMENDMENT TO COMPLAINT

CCP 42.64
03-3470

SUPERIOR COURT OF CALIFORNIA
ORANGE COUNTY – CENTRAL JUSTICE CENTER
CIVIL DEPARTMENT CALENDAR SCHEDULING CHART
Ex Parte applications must comply with California Rules of Court, rules 3.1200 – 3.1207
Court Local Rules are located at www.occourts.org

Dept.	Judicial Officer	Motion Days and Time	Ex Parte Days and Time	Telephonic Notice to Courtroom the day before the hearing but no later than:	Ex Parte Application and Proposed Order presented to the court the day before the hearing but no later than:	Rulings posted on Internet?	Other
C11	BANKS 657-622-5211	Friday 1:30 p.m.	Daily 8:45 a.m.	Noon	3:00 p.m.	Yes	Call (657) 622-5211 to reserve motion date. Moving party must submit on moving papers unless court invites oral argument. Counsel must reserve Ex Parte hearings with the courtroom by calling (657) 622-5211 and supply whatever information may be requested.
C20	CHAFFEE 657-622-5220	Friday 9:30 a.m.	Daily 1:30 p.m.	None	Noon	Yes - 3:00 p.m. the day before	Teleconference appearances are voluntary and do not require consent by court or other parties. However, the court reserves to right to reject any request. Teleconference appearances are conducted in conformity with the guidelines, which are available by calling CourCall, LLC at (310) 914-7884 or (888) 88-COURT
C15	FIRMIN 657-622-5215	Thursday 3:00 p.m.	Daily 8:30 a.m.	Not required	11:30 a.m.	Yes	Teleconference appearances are voluntary and do not require consent by court or other parties. However, the court reserves to right to reject any request. Teleconference appearances are conducted in conformity with the guidelines, which are available by calling CourCall, LLC at (310) 914-7884 or (888) 88-COURT
C18	D'ICESARE 657-622-5218	Thursday 1:30 p.m.	M,T,W,F 1:30 p.m.	Noon	4:30 P.M. if day prior to the Ex Parte hearing is Monday-Thursday; 3:00 P.M. if day prior to the Ex Parte hearing is Friday.	Yes - 3:00 p.m. the day before	If there is no appearance for argument, the court will order the tentative ruling to become effective and final the date of the hearing.
C22	FELL 657-622-5222	Wednesday 10:00 a.m.	Daily 8:30 a.m.	Not required	2:00 p.m.	Yes - 4:30 p.m. the day before	Moving party must submit on moving papers unless the court invites oral argument. Oral argument will be heard on the hearing date. Oppositions must be in writing but may be hand written if presented at the time of appearance.
C33	GLASS 657-622-5233	Tuesday 9:00 a.m.	Monday 10:00 a.m. T,W,Th,F 9:00 a.m.	8:00 a.m.	3:00 p.m. Oppositions due by 9:00 a.m. day before hearing	Yes - Friday before hearing	Oral argument will be heard on the hearing. Counsel may submit on pleadings but must inform clerk prior to calendar call. Call clerk if all sides submit to tentative ruling. The court may allow oral argument but it will be limited to 5 minutes or less per side.

03/02/2010 15:21 8058971834

ERIC A. WOODSLEY

PAGE 22/27

SUPERIOR COURT OF CALIFORNIA
ORANGE COUNTY – CENTRAL JUSTICE CENTER
CIVIL DEPARTMENT CALENDAR SCHEDULING CHART
Ex Parte applications must comply with California Rules of Court, rules 3.1200 – 3.1207
Court Local Rules are located at www.occourts.org

Dept.	Judicial Officer	Motion Days and Time	Ex Parte Days and Time	Telephonic Notice to Courtroom the day before the hearing but no later than:	Ex Parte Application and Proposed Order presented to the court the day before the hearing but no later than:	Rulings posted on Internet?	Other Call for available dates:
C31	HORN 657-622-5231	Wednesday 1:30 p.m.	M, T, W, Th, Fri. 8:00 a.m.	12:00 p.m. Before EX Parte Hearing. Reservation must be made with courtroom prior to the hearing.	3:00 p.m.	No	
C24	HUNT 657-622-5224	T, W, Th 8:30 a.m.	Daily 1:30 p.m.	Not required	Submit documents at time of hearing	No	Motions for Summary Judgment & Demurrers must be received with C-24 prior to filing by calling (657)622-5224. Teleconference appearances are voluntary and do not require consent by court or other parties. However, the court reserves the right to reject any request. Teleconference appearances are conducted in conformity with the guidelines, which are available by calling CourtCall, LLC at (310)914-7884 or (888) 88-COURT
C26	LEWIS 657-622-5226	Monday 10:30 a.m.	T, W, Th 8:30 a.m.	10:00 a.m.	2:00 p.m.	Yes - noon Friday before	Late ex parte applications shall not be accepted. Teleconference appearances are voluntary and do not require consent by court or other parties. However, the court reserves the right to reject any request. Teleconference appearances are conducted in conformity with the guidelines, which are available by calling CourtCall, LLC at (310)914-7884 or (888) 88-COURT
C3	MAKINO 657-622-5203	Friday 9:00 a.m.	M,T,W,Th 8:45 a.m.	10:00 a.m. Reservation must be made with courtroom prior to Ex Parte hearing.	3:00 p.m.	Yes	Once tentative ruling is posted NO continuance will be granted or hearing cannot be taken off calendar

03/02/2010 16:21 8858971834

ERIC A. WOOSLEY

PAGE 23/27

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

**ALTERNATIVE DISPUTE RESOLUTION (ADR)
INFORMATION PACKAGE**

NOTICE TO PLAINTIFF(S) AND/OR CROSS-COMPLAINANT(S):

Rule 3.221(c) of the California Rules of Court requires you to serve a copy of the ADR Information Package along with the complaint and/or cross-complaint.

**California Rules of Court – Rule 3.221
Information about Alternative Dispute Resolution (ADR)**

(a) Each court shall make available to the plaintiff, at the time of filing of the complaint, an ADR Information Package that includes, at a minimum, all of the following:

- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes.
- (2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.
- (3) Information about the availability of local dispute resolution programs funded under the Dispute Resolutions Program Act (DRPA), in counties that are participating in the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county's DRPA coordinator.
- (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(b) A court may make the ADR Information Package available on its Web site as long as paper copies are also made available in the clerk's office.

(c) The plaintiff must serve a copy of the ADR Information Package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR Information Package on any new parties to the action along with the cross-complaint.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

ADR Information

Introduction.

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts and others offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. ADR is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved.

BENEFITS OF ADR.

Using ADR may have a variety of benefits, depending on the type of ADR process used and the circumstances of the particular case. Some potential benefits of ADR are summarized below.

Save Time. A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.

Save Money. When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, experts' fees, and other litigation expenses.

Increase Control Over the Process and the Outcome. In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.

Preserve Relationships. ADR can be a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.

Increase Satisfaction. In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.

Improve Attorney-Client Relationships. Attorneys may also benefit from ADR by being seen as problem-solvers rather than combatants. Quick, cost-effective, and satisfying resolutions are likely to produce happier clients and thus generate repeat business from clients and referrals of their friends and associates.

DISADVANTAGES OF ADR.

ADR may not be suitable for every dispute.

Loss of protections. If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.

Less discovery. There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

Additional costs. The neutral may charge a fee for his or her services. If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Effect of delays if the dispute is not resolved. Lawsuits must be brought within specified periods of time, known as *statutes of limitation*. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

TYPES OF ADR IN CIVIL CASES.

The most commonly used ADR processes are arbitration, mediation, neutral evaluation and settlement conferences.

Arbitration. In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. *Nonbinding arbitration* means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate. Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate. If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Mediation. In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate. Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate. Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Neutral Evaluation. In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is

often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate. Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate. Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conferences. Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

ADDITIONAL INFORMATION.

In addition to mediation, arbitration, neutral evaluation, and settlement conferences, there are other types of ADR, including conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs, Consumer Information Center, toll free, 1-800-852-5210
- Contact the Orange County Bar Association at (949) 440-6700
- Look in the Yellow Pages under "Arbitrators" or "Mediators"

Free mediation services are provided under the Orange County Dispute Resolution Program Act (DRPA). For information regarding DRPA, contact:

- Institute for Conflict Management (714) 288-5500
- Community Service Programs, Inc. (949) 851-3168
- Orange County Human Relations (714) 634-7198
- Fair Housing Council of Orange County (714) 569-0827

For information on the Superior Court of California, County of Orange court ordered arbitration program, call (714) 834-3774 or refer to Local Rules 380 and 445.

The Orange County Superior Court is offering pilot programs for Civil Mediation and Early Neutral Evaluation (ENE) for civil cases filed at the Central Justice Center. For the Civil Mediation pilot program, mediators on the Court's panel have agreed to accept a fee of \$300 for up to the first two hours of a mediation session. For the ENE program, members of the Court's panel have agreed to accept a fee of \$300 for up to three hours of an ENE session. Additional information on the Orange County Superior Court Civil Mediation and Early Neutral Evaluation (ENE) pilot programs is available on the Court's website at www.occourts.org, or by calling (714) 834-5309.

01/15/2010 15:07 805897-34

ERIC A. WOOSLEY

PAGE 02/16

RECEIVED**FILED**

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address)
Eric A. Woosley (SB211962) SUPERIOR COURT OF CALIFORNIA
 THE LAW OFFICE OF ERIC A. WOOSLEY COUNTY OF ORANGE
 1602 State Street CENTRAL JUSTICE CENTER

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 CENTRAL JUSTICE CENTER

Santa Barbara, CA 93010

JAN 15 2010

TELEPHONE NO.: (805) 897-1830 FAX NO.: (805) 897-1834

ATTORNEY FOR (Name): Paul Rice and Joseph Rice

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange B. RYAN

STREET ADDRESS: 700 Civic Center Drive, West

MAILING ADDRESS:

CITY AND ZIP CODE: Santa Ana, CA 92702

BRANCH NAME:

CASE NAME: Rice, et al. v. Charles Schwab, et al.

CIVIL CASE COVER SHEET

Unlimited Limited
 (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
 Filed with first appearance by defendant
 (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- Auto (22)
- Uninsured motorist (46)
- Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)

- Product liability (24)
- Medical malpractice (46)
- Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- Business tort/unfair business practice (07)
- Civil rights (08)
- Defamation (13)

Fraud (16)

- Intellectual property (19)
- Professional negligence (25)
- Other non-PI/PD/WD tort (35)

Employment

- Wrongful termination (36)
- Other employment (15)

Contract

- Breach of contract/warranty (06)
- Rule 3.740 collections (09)
- Other collections (08)
- Insurance coverage (18)
- Other contract (37)

Real Property

- Eminent domain/inverse condemnation (14)
- Wrongful eviction (33)
- Other real property (26)

Unlawful Detainer

- Commercial (31)
- Residential (32)

Judicial Review

- Asset forfeiture (05)
- Petition re: arbitration award (11)
- Writ of mandate (02)
- Other judicial review (39)

Provisionally Complex Civil Litigation
 (Cal. Rules of Court, rules 3.400-3.403)

- Antitrust/Trade regulation (03)
- Construction defect (10)
- Mass tort (40)
- Securities litigation (28)
- Environmental/Toxic tort (30)
- Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- Enforcement of judgment (20)
- Miscellaneous Civil Complaint
- RICO (27)
- Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- Partnership and corporate governance (21)
- Other petition (not specified above) (43)

2. This case is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties d. Large number of witnesses
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 5

5. This case is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 15, 2010

Eric A. Woosley (SB211962)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

BY FAX

01/15/2010 15:07 8058971834

ERIC A. WOOSLEY

PAGE 03/16

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: Charles Schwab; Moody's Investors
(AVISO AL DEMANDADO): Service; Standard & Poor's, and
 DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF: Paul Rice and Joseph K. Rice
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

SUM-100	
FOR COURT USE ONLY (SOLO PARA USO DE LA Corte)	
FILED	
SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER	
JAN 15 2010	
ALAN CARLSON, Clerk of the Court	
BY: <u>N. DORFMAN</u> , Deputy	

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **(AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.)**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.euocorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.euocorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desestimar el caso.

The name and address of the court is:
 (El nombre y dirección de la corte es):

Orange County Superior Court
 700 Civic Center Drive, West

CASE NUMBER:
 (Número del Caso):

30-2010

00338482

Santa Ana, CA 92702

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Eric A. Woosley (SB211962)

THE LAW OFFICE OF ERIC A. WOOSLEY

1602 State Street

Santa Barbara, CA 93010

DATE: JAN 15 2010

(Fecha) ALAN CARLSON

Clerk, by
 (Secretario)

N. DORFMAN

, Deputy
 (Adjunto)

Natalashade

JUDGE DAVID R. CHAFFEE

C-20

(805) 897-1830 (805) 897-1834

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.

2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

under: CCP 416.10 (corporation)

CCP 416.20 (defunct corporation)

CCP 416.40 (association or partnership)

other (specify):

CCP 416.60 (minor)

CCP 416.70 (conservatee)

CCP 416.90 (authorized person)

4. by personal delivery on (date):



Form Adopted for Mandatory Use
 Judicial Council of California
 SUM-100 (Rev. July 1, 2008)

SUMMONS

Legal
 Solutions
 Co., PLLC

Code of Civil Procedure §§ 412.20, 465

Page 1 of 1

<p><i>Attorney or Party without Attorney:</i> ERIC A. WOOSLEY, Bar #211962 LAW OFFICE OF ERIC A. WOOSLEY 1602 STATE STREET Santa Barbara, CA 93101 Telephone No: (805) 897-1830 FAX No: 897-1834 office@zwlegal.com <i>Attorney for Plaintiff</i></p>		<p>SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER</p>	
		<p>MAR 15 2010</p>	
		<p>Ref. No. or File No.:</p>	<p>ALAN CARLSON, Clerk of the Court <i>F. Ibarra</i> BY F. IBARRA</p>
<p><i>Insert name of Court, and Judicial District and Branch Court:</i> ORANGE COUNTY SUPERIOR COURT</p>			
<p><i>Plaintiff:</i> RICE, ET AL. <i>Defendant:</i> CHARLES SCHWAB, ET AL.</p>			
<p>PROOF OF SERVICE Summons & Complaint</p>	<p>Hearing Date:</p>	<p>Time:</p>	<p>Dept/Div:</p>
			<p>Case Number: 30-2010-00338482</p>

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of the SUMMONS AND COMPLAINT; AMENDMENT TO COMPLAINT; AMENDMENT TO COMPLAINT; AMENDMENT TO COMPLAINT; CIVIL DEPARTMENT CALENDAR SCHEDULING CHART; ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE; (BLANK) ALTERNATIVE DISPUTE RESOLUTION (ADR) STIPULATION

3. a. *Party served:* MOODY'S INVESTORS SERVICE, INC.
 b. *Person served:* MARGARET WILSON, AUTHORIZED TO ACCEPT

4. *Address where the party was served:*
 CT CORPORATION SYSTEM
 818 WEST SEVENTH STREET
 LOS ANGELES, CA 90017

5. *I served the party:*
 a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on Wed., Mar. 03, 2010 (2) at: 2:45PM
 b. The "Notice to the Person Served" (on the Summons) was completed as follows:
 on behalf of: MOODY'S INVESTORS SERVICE, INC.
 Under CCP 416.10 (corporation)

7. *Person Who Served Papers:*
 a. DeAndre JOHNSON
 b. UNITED PROCESS SERVERS, Inc.
 142 East Figueroa Street
 Santa Barbara, CA 93101
 c. 805 966-2102, FAX 805 966-4031

Recoverable Cost Per CCP 1033.5(a)(4)(B)

- d. *The Fee for Service was:*
 e. I am: (3) registered California process server
 (i) Employee
 (ii) Registration No.: 140
 (iii) County: Los Angeles

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Wed, Mar. 10, 2010

Judicial Council Form POS-010
 Rule 2.150,(a)&(b) Rev January 1, 2007

PROOF OF SERVICE
Summons & Complaint

DeAndre JOHNSON

case#113388

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

(a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Paul Rice and Joseph Rice		DEFENDANTS Charles Schwab; Moody's Investors Service; Standard & Poor's		
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Eric A. Woosley Law Office of Eric A. Woosley 1602 State Street Santa Barbara, CA 93101 Tel: (805) 897-1830; Fax: (805) 897-1834		Attorneys (If Known) Attorneys for Standard & Poor's David Biderman/Judith B. Gitterman PERKINS COIE LLP 1888 Century Park East, Suite 1700 Los Angeles, CA 90067 Tel: (310) 788-9900; Fax: (310) 788-3399		
I. BASIS OF JURISDICTION (Place an X in one box only.)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)		
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	<input checked="" type="checkbox"/> PTF 1 <input type="checkbox"/> DEF 1 Incorporated or Principal Place of Business in this State <input type="checkbox"/> PTF 4 <input type="checkbox"/> DEF 4	
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5	
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6	
IV. ORIGIN (Place an X in one box only.)		 <input type="checkbox"/> 1 Original <input checked="" type="checkbox"/> 2 Removed from <input type="checkbox"/> 3 Remanded from <input type="checkbox"/> 4 Reinstated or <input type="checkbox"/> 5 Transferred from another district <input type="checkbox"/> (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge		
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)		Not less than		
CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input checked="" type="checkbox"/> MONEY DEMANDED IN COMPLAINT: \$ 260,952		
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 28 U.S.C. § 1332 28 U.S.C. § 1367(a)				
VII. NATURE OF SUIT (Place an X in one box only.)				
OTHER STATUTES	CONTRACT	TORTS	PRISSONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 410 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
PERSONAL INJURY	PERSONAL PROPERTY	BANKRUPTCY	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
IMMIGRATION	CIVIL RIGHTS		SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: SACV10-00398
AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

Check all boxes that apply

<input type="checkbox"/>	A. Arise from the same or closely related transactions, happenings, or events; or
<input type="checkbox"/>	B. Call for determination of the same or substantially related or similar questions of law and fact; or
<input type="checkbox"/>	C. For other reasons would entail substantial duplication of labor if heard by different judges; or
<input type="checkbox"/>	D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. VENUE: (When completing the following information, use an additional sheet if necessary.)

a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: Orange County - Plaintiff 1	California County outside of this District; State, if other than California; or Foreign Country Michigan - Plaintiff 2
---	---

b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: Defendant Standard & Poor's - New York Defendant Moody's - New York	California County outside of this District; State, if other than California; or Foreign Country
--	---

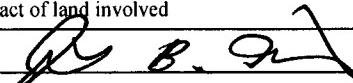
c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District: New York	California County outside of this District; State, if other than California; or Foreign Country
--------------------------------------	---

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 4/2/2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Cormac J. Carney and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

SACV10 - 398 CJC (MLGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.